**IN THE HIGH COURT OF JUDICATURE OF BOMBAY**

**CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO.1427 OF 2003

The State of Maharashtra. ..Appellant.

V/s.

Ram Baburao Teli. ..Respondent.

Mr.Y.S.Shinde, APP for State.

Mr.Vishwanath Talkute for respondent.

**CORAM: A.M.KHANWILKAR,J**

**DATE : NOVEMBER 25, 2005.**

**P.C. :**

1. This application is listed under caption direction. However, counsel for the respondent seeks to rely on the decision of this court in Criminal Appeal No.1429 of 2003 dated 7th February, 2005. According to him, facts of the present case are identical to the facts considered and decided in the above said appeal. He submits that for the reasons recorded thereunder, even the present appeal will have to be dismissed on account of non-compliance of section 13(2)(c) of the Prevention of Food Adulteration Act, 1954.

2. The APP fairly accepts this position. The prosecution case is that the food inspector had

purchased the Sunflower oil from the respondent and three samples were taken and sealed and one part was sent to Public Analyst through the Local Health Authority. The report of Public Analyst shows that the sample contained the caster seed oil and the sample does not conform to the standards of 'Sunflower Sweet Oil', as per rules prescribed under the Food Adulteration. It is admitted position that the sample which was sent to the Central Food Labotary was lost and third part of the sample was not sent to the Central Food Labotory, as was mandated by the Section 13(2)(c) of the Act. As procedure envisaged by section 13(2)(c) is mandatory and non-compliance thereof is therefore fatal to the prosecution case; on this basis, the lower court has acquitted the respondent. Accordingly, the opinion expressed by the lower court in this behalf does not warrant any interference. Hence, appeal should fail. Rejected.